

## **REMARKS**

### **I. Status of the Subject Application**

At the outset, Applicant wishes to express appreciation to Examiner Horton for determining that the subject application contains patentable subject matter.

Claims 1, 4-24, 27-37, 42, and 43 are pending in the subject application. Claims 21-24, 27-37, 42, and 43 are allowed. Claims 4, 5, 14, 15, and 17-20 would be allowable if rewritten to overcome the rejections under 35 U.S.C. § 112, second paragraph. Claims 1, 6-13 and 16 stand rejected. In the present Amendment, Applicant has amended claim 1. Applicant has also rewritten claims 4, 5, 9 and 10 in independent form as new claims 45, 46, 47, and 48, respectively. Accordingly, those claims are in condition for allowance. Applicant has also presented new claim 49 which is fully supported by the subject application as originally filed.

### **II. The Rejections Under 35 U.S.C. § 102(b)**

Claims 1, 6 and 12 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,693,047 to Menchetti. The Official Action provides that “Menchetti discloses the use of a stud bridging/spacing system including a bridging member (20) having a longitudinal axis (LA), see the marked attachment; and a bracket (26) having at least one notch (34), in the form of a plurality of serrations formed at the bottom edge thereof.”

Responsive to this rejection Applicant respectfully submits that the tab (26) of Menchetti is not a bracket that is attachable to the bridging member; tab (26) is part of the stud. In particular, Menchetti provides:

The bendable tabs 26, in the preferred embodiment, are made in the form of a small

section of the stud web sheet metal...

Column 2, lines 40-47 of Menchetti. To clarify that the bracket recited in claim 1 is not part of the stud, Applicant has amended claim 1 to recite that at least one notch **in the bracket** is configured to receive a portion of the stud therein. The serrations on tab 26 of Menchetti do not receive a portion of the **stud** therein. They are formed in a portion of the stud and are configured to engage the sides 30 of the channel 20. In particular, Menchetti provides:

The bottom edge 28 of each tab 26 is located immediately atop one of the two upwardly extending sides 30 of channel 20, with the top 32 of each side 30 firmly engaging one of the two bottom edges 28, at about the mid point of the bottom edge 28. Bottom edge is preferably lightly serrated with teeth 34 to more firmly grasp the channel side 30.

Column 2, lines 52-58 of Menchetti. Thus, Menchetti does not disclose each and every element of claim 1 in the same form recited in that claim. Accordingly, Menchetti does not anticipate the subject matters of claim 1 and claims 6 and 12, which depend from claim 1.

### **III. The Rejections Under 35 U.S.C. § 103**

Claims 7 and 8 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Menchetti. As discussed above, the serrations of Menchetti are in part of the **stud** and do not receive part of the stud as recited in amended claim 1. The Official Action points to no motivation in the prior art that would have led the skilled artisan to make the modifications to the Menchetti arrangement to achieve the subject matters of amended claim 1 and claims 7 and 8, which depend from claim 1. Indeed, such modifications would alter the manner in which Menchetti functions. Accordingly, Applicant respectfully submits that a *prima facie* of obviousness has not been established with respect to claims 7 and 8.

#### **IV. . Consideration of Information Disclosure Statements**

On September 5, 2003, Applicant filed a Supplemental Information Disclosure Statement Under 37 C.F.R. § 1.97(c)(2) (the "Supplemental IDS"), along with a check in the amount of \$180. The Supplemental IDS crossed in the mail with the Official Action. However, because the Official Action is not a final Official Action, Applicant submits that the Supplemental IDS was timely filed. Consideration of the Supplemental IDS is respectfully requested.

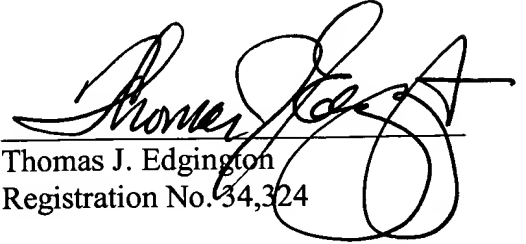
Applicant is also submitting a second Supplemental Information Disclosure Statement herewith. A check in the amount of \$180 is enclosed. The PTO is hereby authorized to charge Deposit Account 11-1110 for any fee deficiencies associated with this second Supplemental Information Disclosure Statement. Consideration of the second Supplemental Information Disclosure Statement is solicited

#### **V. Conclusion**

Applicant submits that all of the pending claims are in condition for allowance. Accordingly, reconsideration and withdrawal of the rejections in the Official Action and passage to allowance of all the pending claims at an early date are earnestly solicited. However, if the Examiner has any remaining concerns regarding Applicant's present Amendment, she is invited

to contact the Applicant's undersigned attorney at the telephone number listed below so that those concerns may be expeditiously addressed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Thomas J. Edgington", is written over a horizontal line. The signature is stylized with large, flowing loops.

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